

DAVIS COUNTY
ORDINANCE NO. _____

**AN ORDINANCE REPEALING AND REPLACING CHAPTER 2.36 OF THE DAVIS
COUNTY CODE
REGARDING RECORDS ACCESS AND MANAGEMENT**

WHEREAS, on August 3, 2021, the county legislative body of Davis County, Utah (the “Davis County Legislative Body”), met in a regular meeting, lawful notice of which was provided, to consider, among other things, repealing and replacing Title 2, Chapter 36 of the Davis County, Utah, Code of Ordinances (the “Davis County Code”) regarding records access and management and determined that repealing and replacing Title2, Chapter 36 of the Davis County Code, as set forth below, is necessary and proper to promote the prosperity and/or to improve the morals, peace, good order, comfort, and/or convenience of Davis County and its inhabitants.

NOW, based upon the foregoing and after careful consideration, the Davis County Legislative Body ordains as follows:

Chapter 2.36 - RECORDS ACCESS AND MANAGEMENT

Section 2.36.010 Short title.

This chapter is known as the “Davis County Records Access and Management Ordinance”.

Section 2.36.020 - Adoption of the Utah Government Records Access and Management Act

The County adopts the Act as well as Utah Code Ann. § 63A-12-103, 63A-12-105, and 63A-12-107, as amended, except for the sections of this chapter that are contrary to or in addition to:

- A. The Act; and
- B. Utah Code Ann. § 63A-12-103, 63A-12-105 and 63A-12-107, as amended.

Section 2.36.030 - Definitions

As used in this chapter:

- A. "Act" means the Utah Government Records Access and Management Act codified at Utah Code Ann. § 63G-2-101, et seq., as amended.
- B. "Administrative Officer" means the elected official or appointed director of each County office or department.
- C. "Agency" means any office, department, staff, board, committee or other division of Davis County Government, any public or private entity or person which contracts with the County to

provide goods or services directly to the County, or any private nonprofit entity that receives funds from the County.

- D. "Chief Administrative Officer" means the County Clerk/Auditor.
- E. "Chief Administrative Officer of Appeals" means the current chairperson of the County Commission.
- F. "County Attorney" means the Davis County Attorney and/or the appointed designee(s) of the Davis County Attorney or the Davis County Attorney's Office.
- G. "Departmental Records Specialist" means an individual designated by a County officer, director, or department head as a records specialist for a particular County office's or department's records.
- H. "Records Officer" means the individual designated or appointed by the County Clerk/Auditor to fill the position established by this chapter; the title of this position will be determined by the Clerk/Auditor in consultation with Davis County Human Resources.
- I. "Request" or "GRAMA Request" means a written request that contains the Requesting Party's name, mailing address, and daytime telephone number as well as a description of the record(s) requested that identifies the record(s) with reasonable specificity, which is submitted by a Requesting Party, who is either unassociated with the County or, if associated with the County, is acting in a capacity separate and distinct from the County.
- J. "Requesting Party" means the specific individual(s), entity(ies), governmental agency(ies), or otherwise who submit(s) a request to the County.
- K. "Responsible department" means the County office or department that usually keeps or maintains a requested County record. "Responsible Department" includes the County employees, agents and appointed or elected officers of that County department or office.
- L. "State Archives" means the Utah Division of Archives and Records Service
- M. Any terms used in this chapter shall have the same meanings as set forth in Section 103 of the Act, as amended, unless the terms are either defined in this chapter or defined in other chapters of the Davis County Code that are applicable to all chapters comprising the Davis County Code (e.g. Chapter 1.04 General Provisions, as amended).

Section 2.36.040 - Records to Remain County Property

All records as defined under the Act, created, received, or maintained by any officer, employee, agent or volunteer of the county are and shall remain the property of the County unless applicable federal or state statutory authority relating to a specific record or record series provides otherwise.

Section 2.36.050 - Right to inspect County records and receive copies of County records

The County hereby adopts Section 201 of the Act, as amended, regarding the right to inspect County records and receive copies of County records.

Section 2.36.060 - Access to private, controlled, and protected County records

The County hereby adopts Section 202 of the Act, as amended, regarding access to private, controlled, and protected County records.

Section 2.36.070 - Designation and Duties of Chief Administrative Officer

The Clerk/Auditor is designated as the Chief Administrative Officer for Davis County as used in the Act, Utah Code Ann. § 63A-12-103 and in this chapter.

Section 2.36.080 - Designation and Duties of Chief Administrative Officer of Appeals

The current chairperson of the County Commission is designated as the Chief Administrative Officer of Appeals for the County as used in this chapter and performs the duties related to the appeal process.

Section 2.36.090 - Designation and Duties of County Records Officer

- A. The position of Davis County Records Officer, within the office of the Chief Administrative Officer, is established.
- B. The Records Officer shall be designated by the Chief Administrative Officer.
- C. The duties of the Records Officer shall include, but are not limited to, the following:
 - 1. Review and make recommendations for the development of guidelines, regulations, and administration of a County Records Management Program;
 - 2. Coordinate the County Records Management Program;
 - 3. Assist in the preparation and maintenance of an inventory of County records;
 - 4. Provide assistance and training to County personnel for the handling, preservation, retention and management of County records;
 - 5. Act as the liaison and contact agent for the County with the State Archives and Records Service, Department of Administrative Services, and work with that State agency in the care, maintenance, scheduling, designation, classification, disposal and preservation of County records;
 - 6. Receive and evaluate records requests and prepare responses in compliance with this ordinance;
 - 7. Perform such other services and duties as may be requested by the Chief Administrative Officer regarding records;
 - 8. Assist Administrative Officers with respect to classification or reclassification of records; and
 - 9. Review all appeals as part of the appeals process provided for in this chapter, and issue recommendations to County officers, employees, agents, or representatives for the possible resolution of an appeal.

Section 2.36.100 - Designation of Departmental Records Specialist

- A. Each Administrative Officer shall designate one or more Departmental Records Specialists to assist the Chief Administrative Officer, the Records Officer, and the Administrative Officer in all respects relating to this chapter. In general, the duties of a Departmental Records Specialist, once designated, shall comprise a portion of the designated employee's duties as determined by the Administrative Officer.

- B. The designation of one or more Departmental Records Specialists by each Administrative Officer shall be made on a form provided by the Chief Administrative Officer and shall be filed with the Records Officer.
- C. The duties of the Departmental Records Specialists shall include, but are not limited to, the following:
 - 1. Maintain a current and ~~extensive-comprehensive~~ knowledge of all records maintained by the department.
 - 2. Act as a primary resource to the Administrative Officer and other employees of the department as it pertains to this chapter.
 - 3. Act as a liaison between the Records Officer and the Departmental Records Specialist's department;
 - 4. Assist the Administrative Officer in preparing an annual Record Maintenance and Management Report/Plan;
 - 5. Participate in training and pass tests provided by the State Archives, upon initial designation which include:
 - a. Essentials for Records Management, or equivalent as determined by the Records Officer.
 - b. Essentials of GRAMA, or equivalent as determined by the Records Officer.
 - 6. Participate in County Baseline training provided by the Records Officer upon initial designation.
 - 7. As determined by the Records Officer, ~~P~~participate in one of the trainings provided by the State Archives each year which include:
 - a. Essentials for Records Management, or equivalent as determined by the Records Officer.
 - b. Essentials of GRAMA, or equivalent as determined by the Records Officer.
 - 8. Participate in regular training provided by the Records Officer and/or other County representatives pertaining to acceptable records practices in compliance with the Act's guidelines;
 - 9. Receive process and respond to records requests as provided for by this chapter, unless otherwise established in the Records Specialist's department or office annual Records Maintenance and Management Report/Plan; and
 - 10. Under the supervision of the Records Officer, oversee and practice proper records retention and disposal procedures in compliance with the Act, the Utah State Archives records management guidelines, this chapter, and the County's applicable policies, procedures, and/or guidelines.

Section 2.36.110 - Classification of Records

- A. The County hereby adopts Sections 301 through 310 of the Act, as amended, regarding classification.
- B. The Records Officer, under the direction of the Chief Administrative Officer and with the assistance, as may be required, of the Departmental Records Specialist(s), the applicable

Administrative Officer(s), and/or the County Attorney, shall perform the records classification on behalf of the County and shall prepare and promulgate classification forms, rules and guidelines.

Section 2.36.120 - Collection of Information and Accuracy of Records

The County hereby adopts Sections 601 through 604 of the Act, as amended, regarding the collection of information and accuracy of records.

Section 2.36.130 - Remedies

The County hereby adopts Sections 801, 803, and 804 of the Act, as amended, regarding remedies.

Section 2.36.140 - Rules and Policies

Copies of all rules and policies developed, adopted and promulgated under this chapter shall be submitted by the Records Officer to the State Archives within thirty (30) days of the effective date of such rules and policies.

Section 2.36.150 - Copyright Records

- A. All County records which constitute an intellectual property right shall remain the property of the County unless federal or state legal authority provides otherwise.
- B. Property rights to County records may not be permanently transferred from the County to any private individual or entity, including those legally disposable AND OR obsolete County records.
 - 1. This prohibition does not include the providing of record copies for release or distribution under this chapter.
- C. All records disposals shall be conducted in accordance with County policies and procedures.

Section 2.36.160 - Termination of Position or Agency

- A. Administrative Officers and employees shall, at the expiration of their terms of office, appointment or employment, deliver custody and control of all records kept or received by them to the Chief Administrative Officer, the Records Supervisor, or, at the direction of the Chief Administrative Officer, the Administrative Officers' successor(s).
- B. All records which are in the possession of any Agency shall, upon termination of activities of such Agency, be transferred to the Chief Administrative Officer, the Records Supervisor, or, at the direction of the Chief Administrative Officer, the Agency's successor(s).
- C. All records created using County-owned assets, or created in the course of conducting County business, are the property of the County. Such records are subject to the Act, this chapter, and the County's policies, procedures, and guidelines; unless such records are exempt, privileged or otherwise not governed by the Act, this chapter, and/or the County's policies, procedures, and guidelines.

Section 2.36.170 - Storage Responsibility

A. Each Administrative Officer is responsible to:

1. Receive, store and preserve the Administrative Officer's office or department records and other materials.
2. Provide reasonable access to said records in compliance with this chapter and the Act.
3. Accurately and safely maintain said records in compliance with this chapter and the Act.

Section 2.36.180 - County Records Cataloging System

The County hereby establishes a County Records Cataloging system; its purpose is to identify the various records of the County, their format and location. The Chief Administrative Officer shall establish, maintain and administer the County Records Cataloging system and has sole discretion in the selection of an appropriate platform or service to facilitate this requirement so long as the selection complies with current purchasing policies and budgetary requirements.

Section 2.36.190 - County Records Repository

The County hereby establishes a County Records Repository; its purpose is to identify and preserve records that have been determined to have significant, long-term, or historical value to Davis County and its citizens. These records shall be cataloged and may be preserved in a central storage facility maintained by the Chief Administrative Officer or may be preserved by the responsible department. Such determination will be made by the Records Officer in conjunction with the applicable Administrative Officer. The maintenance, administration and policies of the County Records Repository shall be the responsibility of the Chief Administrative Officer.

Section 2.36.200 - Records Format

The County retains and reserves to itself the right to use any format[s] for the storage, retention, and retrieval of government records, including, but not limited to, audio tapes, video tapes, micro-forms, and any type of computer, data processing, imaging or electronic information storage or processing equipment or systems, which are not prohibited by state statute and do not compromise legal requirements for record storage, retrieval, security and maintenance, to store and maintain County records.

Section 2.36.210 - Computer Data and Software

- A. All computerized and non-written format records and data which are designated and classified in accordance with the Act and this chapter, shall be made available to a Requesting Party in accordance with this chapter and the Act.
- B. The County has the right to store and maintain any and all County records on any type of computer, data processor, or other electronic information storage system which it deems reasonable and appropriate unless otherwise prohibited by state law.
- C. All data and information contained on computers shall, if properly classified in accordance with the Act and this chapter as a public record, be available to a Requesting Party within a reasonable time and at a reasonable cost as determined by the County.

- D. Access to computer information shall be allowed only in the manner determined by the Administrative Officer, the County Information Systems Director, the Records Officer, and the County Attorney and may include, but is not necessarily limited to, the following methods:
1. Allowing the Requesting Party to use a County computer terminal to retrieve or inspect data on the terminal and inspect data on the terminal screen; provided, however, that sufficient precautions be exercised to ensure that any data which might be defined by the Act or this chapter as not being public records shall not be retrieved or displayed on the screen nor able to be printed by the Requesting Party; that any data may not be altered or deleted by the Requesting Party; and that the terminal is available for use without unacceptable hindrance of County functions and needs;
 2. Providing copies of computer printouts or computer tapes, discs, or other means of transmitting information if so requested by the Requesting Party; provided, however, that appropriate precautions be exercised to ensure that any data or files which may be defined by the Act or this chapter as not being public records will not be retrievable by the Requesting Party and that appropriate safeguards are taken to avoid contamination of the County computers by the insertion of discs provided by a Requesting Party;
 3. Providing access to County computer, data processing, or electronic information systems by remote terminals pursuant to a written executed contract allowing such access; provided, however, that appropriate precautions be exercised to ensure that any data or files which may be defined by the Act or this chapter as not being public records will not be retrievable by the Requesting Party and that appropriate safeguards are taken to avoid contamination of the County computers by the insertion of discs provided by a Requesting Party.
- E. Computer software, whether for word processing or data management, is not considered a public record or data. Computer software shall not be subject to disclosure under this chapter or the Act. Software shall include, but not be limited to, copyrighted software and other materials which have been purchased by or licensed to the County or which have been developed by the County.
- F. Administrative Officers shall exercise due diligence to protect the security of the County computers, data processors, and electronic information systems including the software, data, files, and other materials contained therein.

Section 2.36.220 - Justice Court Records

- A. Records activities of the County justice court system shall comply with and be governed by this chapter as far as it does not conflict with Section 702 of the Act, or other State or Federal laws as amended.

Section 2.36.230 - County Records Management Program

- A. Records maintenance and management procedures shall be developed by the Records Officer to ensure that due care is taken to maintain, manage and preserve County records safely and accurately over the long term in a manner consistent with the Act.
- B. The Records Officer shall be responsible for monitoring the application and use of technical processes in the creation, duplication and disposal of County Records and shall monitor compliance with required standards of quality, permanence and admissibility pertaining to the creation, use and maintenance of records.

- C. Policies and regulations regarding types and formats of papers, inks, electronic media, and other records and information storage media, materials, equipment, procedures and techniques shall be developed and promulgated, subject to the approval of the Chief Administrative Officer.
- D. The Records Officer shall be consulted prior to the purchase, development and or implementation or use of electronic systems or programs as it relates to records management.
- E. The destruction of records in all forms shall be in compliance with the Act, the State Archives records management guidelines, this chapter, and the County's applicable policies, procedures, and/or guidelines and if required shall be completed only after a Davis County Destruction Certificate is completed. All approved Davis County Destruction Certificates shall be maintained by the Records Officer.
- F. Each Administrative Officer shall, using a form provided by the Records Officer, prepare and submit an Annual Record Maintenance and Management Report/Plan to include:
 - 1. A thorough review and verification of the accuracy of all Davis County retention schedules for all records maintained by the Administrative Officer's Department or Office. Identification and listing of any State General Retentions Schedules applicable to the records maintained by the Administrative Officer's Department or Office.
 - 2. A listing of any records for which the description, retention, maintained format, or any other portion of the retention schedule requires update or modification.
 - 3. A listing of any records that have not been established with a series number, along with a description of the records, the format in which they are maintained, and any statutory or administrative retention period.
 - 4. Designation of who shall be responsible for responding to requests for records. This determination shall be made by both the Administrative Officer and the Records Officer.
 - 5. Verification that records of the Administrative Officer's Department or Office which have met retention have been properly destroyed. List any records which were retained past their scheduled retention and the purpose of retaining them.
 - 6. Re-designation of Department Records Specialist.

Section 2.36.240 - Requests for Records

- A. The Chief Administrative Officer shall establish, maintain and administer a centralized GRAMA Request Information Database to be used in the efficient receipt, response, and retention of GRAMA requests and applicable responsive records. The Chief Administrative Officer has sole discretion in the selection of an appropriate platform or service to facilitate this requirement so long as the selection complies with current purchasing policies and budgetary requirements.
- B. The Chief Administrative Officer shall establish, maintain and administer an online publicly available GRAMA request form.
- C. Requesting parties shall submit a request to the County and if possible use the online GRAMA request form.
- D. If a request is submitted by means other than the online GRAMA request form, the first County Office or department to receive a request shall enter the request into the GRAMA Request Information Database.

Section 2.36.250 - Fees

- A. The County hereby adopts Section 203 of the Act, as amended, regarding fees, except as otherwise set forth in this section and/or this chapter.
- B. The County hereby incorporates all applicable fees set forth in Title 2, Chapter 2.48 of the Davis County Code, as amended.
- C. The County establishes a minimum fee of \$10.00 for all requests, and considers this a reasonable fee to cover the County's actual cost of providing records, unless otherwise set forth in this chapter, the Act, or other provisions of law.
- D. In general, payment of fees in response to a request shall be made in full and at the time the records are made available or delivered to the Requesting Party. In the event that the County expects the fees in response to a Request to exceed fifty dollars (\$50.00), the County specifically adopts Subsection 203(8) of the Act, as amended.
- E. In addition to the provision set forth in 63G-2-203(4), the county may fulfill a records request without charge if:
 - 1. The number of pages of responsive records is less than ten.
 - 2. The time required to assemble and prepare responsive records is negligible.

Section 2.36.260 - Response to Request for Records

- A. As part of the Annual Record Maintenance and Management Report/Plan, or as needed as determined by the Records Officer, a designation shall be made as to whether the Records Officer or the Department Records Specialist will be responsible to respond to requests for records made to that department.
- B. Regardless of the designation made in accordance with section (A) of this part, the Department Records Specialist is responsible to receive requests, identify responsive records, ensure timelines are followed in accordance with this chapter and provide an initial analysis of responsive records which includes: classification, any necessary redaction, and code citation supporting necessary redaction.
- C. The County hereby adopts Section 204 of the Act, as amended, regarding Requests, except as otherwise set forth in this section and/or this chapter.
- D. If a Request for Records is received by any method other than the online GRAMA request form, the receiving department's Records Specialist shall:
 - 1. Enter the request into the GRAMA Request Information Database (GRID) on the day the request is received;
- E. Prior to entering a request in the GRID, if the request is lacking requirements under section 204 of the Act, specifically the name, mailing address and daytime phone #, the department that received the request shall immediately contact the requester to obtain missing information.
- F. Upon entry of the request for records in the GRID, the Records Officer shall review each request, determine which department(s) or office(s) are subject to the request, and notify the Records Specialist of each applicable department or office.
- G. The Records Specialist of each department or office, upon notification from the Records Officer, shall review the request, identify responsive records, and prepare the initial analysis of responsive records.

- H. The Records Specialist shall, in accordance with the Annual Record Maintenance and Management Report/Plan:
 - 1. Respond to the request consistent with this chapter and the Act, and, if necessary, confer with their Administrative Officer, the Records Officer, and/or the County Attorney in responding to the request; or
 - 2. Provide responsive records and the initial analysis to the Records Officer within two business days of receiving the notification mentioned in section (G) of this part.
- I. The Records Officer shall, in accordance with the Annual Record Maintenance and Management Report/Plan;
 - 1. Provide support to Department Records Specialist(s) in accordance with (H)(1); or
 - 2. Respond to the request consistent with this chapter and the Act, and, if necessary, confer with the Department Records Specialist, Administrative Officer, and/or the County Attorney in responding to the request.
- J. Prepared responses to requests for records, with accompanying responsive records, shall be preserved as provided by the Records Officer.
- K. Access to County records shall generally be provided only by and through the process outlined in this chapter.
- L. The County is not obligated to provide certified copies of any records unless obligated to do so by law.
- M. Notwithstanding anything herein to the contrary or otherwise, this chapter does not apply to a request by one or more County offices or departments to one or more other County offices or departments to obtain certain County records.
- N. In circumstances where a record's public or nonpublic status is not specifically established by the Act, another statute, this chapter, or policies established or designations made under this chapter, the public's right to access and the subject of the record's right of privacy must be compared. The County shall not release any records when to do so would constitute a clearly unwarranted invasion of personal privacy, in accordance with the Act and the procedures established in this chapter.
- O. Pursuant to Subsection 307(2) of the Act, as amended, a governmental entity is not required to classify a particular record, record series, or information until access to the record is requested. If the status of a record has not been established at the time of a request, either by Davis County or the State General Schedule, the request shall be scheduled, in accordance with this chapter.

Section 2.36.270 - Denial to Request for Records

- A. The County hereby adopts Section 205 of the Act, as amended, regarding denials of Requests, except as otherwise set forth in this section and/or this chapter.
- B. Notwithstanding that a request has been denied or that an appeal has been filed with respect to that denial, access may be allowed to one or more records and copies made thereof by the Requesting Party/parties entitled to access such records who have complied with the requirements of this chapter and the Act.

Section 2.36.280 - Appeal of Denial to Request for Records

- A. The County hereby adopts Sections 401 through 406 of the Act, as amended, regarding appeals, except as otherwise set forth in this section and/or this chapter.
- B. All appeals made by a Requesting Party to the County shall be filed with the Chief Administrative Officer for Appeals.
- C. Upon receipt of an appeal, the Chief Administrative Officer for Appeals shall immediately notify the Records Officer, the Administrative Officer and Records Specialist of the responsible department, and the County Attorney.
- D. Each person listed in section (C) of this part shall provide all necessary information, documents, and other information that will assist the Chief Administrative Officer for Appeals in his or her evaluation of the appeal.
- E. The Chief Administrative Officer for Appeals shall ensure that all persons listed in section (C) of this part, are provided opportunity to provide all items identified in section (D) of this part, and are updated regularly in the evaluation and final determination of the appeal.
- F. The Chief Administrative Officer for Appeals shall respond to appeals in accordance with the Act.

Section 2.36.290 - Sharing Records

The County hereby adopts Section 206 of the Act, as amended, regarding sharing records.

- A. The Chief Administrative Officer shall establish, maintain and administer a centralized Records Sharing Information Database to be used in the efficient documentation of Records Sharing Agreements. The Chief Administrative Officer has sole discretion in the selection of an appropriate platform or service to facilitate this requirement so long as the selection complies with current purchasing policies and budgetary requirements.
- ~~B. In addition to the sharing of records authorized and specified by the Act and unless contrary to federal or state law, the county Attorney is specifically authorized to share records with the Utah Department of Corrections, law enforcement agencies, and other prosecutors; the Davis County Clerk/Auditor is authorized to share records with contracted independent auditors; and the Davis County Assessor is authorized to share records with the Utah State Tax Commission.~~
- B. In addition to the sharing of records authorized and specified by the Act and unless contrary to federal or state law, the County authorizes it's Departments and Offices to share records with other governmental entities or offices and contracted entities or individuals as determined necessary by the Administrative Officer in the regular course of business. The Administrative Officer shall ensure that any records shared is in compliance with the Act and any existing contracts.
- C. A County department shall not release private, protected, or controlled County records to another governmental entity until an official Davis County Record Sharing Agreement has been completed by the County and signed by the recipient governmental entity.

- D. The responsible department shall enter required information into the Records Sharing Information Database as soon as possible after the Records Sharing Agreement is completed.

Section 2.36.300 - Subpoenas – Court Ordered Disclosure of Records

The County hereby adopts Section 207 of the Act, as amended, regarding subpoenas and court ordered disclosure for discovery.

- A. In the event of the service of a subpoena, discovery pleading, or court order regarding the disclosure of records or making records available to designated parties, such subpoena, pleading, or order shall be promptly forwarded to the County Attorney for legal analysis, and response.

SECTION 2: This Ordinance shall become effective in accordance with Section 17-53-208(3), Utah Code Annotated (2009), as amended.

Bob J. Stevenson	_____ Aye _____ Nay
Lorene M. Kamalu	_____ Aye _____ Nay
Randy B. Elliot	_____ Aye _____ Nay

This Ordinance was duly PASSED and/or APPROVED by the County Legislative Body of Davis County, Utah, on this _____ day of August, 2021, with Commissioners Randy B. Elliott, Lorene M. Kamalu, and Bob J Stevenson, all voting as documented herein above.

DAVIS COUNTY

Bob J Stevenson, Chair, Board of
County Commissioners for Davis
County, Utah

ATTEST:

Curtis Koch, Davis County Clerk/Auditor